IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Bail Appl..No. 4514 of 2007()

CRIME NO.377/07 OF NEYYATTINKARA POLICE STATION

PETITIONERS/ACCUSED 1 TO 3

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1. RAJAN, AGED 32, S/O.JOHNSON, ANIL BHAVAN MALAKULANGARA, MARAYAMUTTOM PO, PERUMKADAVILA VILLAGE.

2. SHAJI @ ANIL KUMAR,AGED 25,S/O.SOMAN, KURIVIMUKAL,VATTAKALA PUTHEN VEEDU, MARAYAMUTTOM PO ,PERUMKADAVILA.

3. JAYAPRAKASH @ AMOSEKUTTAN,AGED 28, S/O. JEEVAMONY,MEELAVILAKATHU VEEDU, MARUTHATHOOR, CHAINKOTTUKONAM PO.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4514 of 2007

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Dated this the 2nd day of August, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 3. There were three named accused and 12 not named accused as per the F.I.R. Allegations are raised, inter alia, under Sections 308 and 324 r/w. 149 I.P.C. On account of prior animosity the accused persons had constituted an unlawful assembly and had allegedly indulged in the culpable overt acts. 'Kuruvady' is the dangerous weapon which is alleged to have been used. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The defacto complainant is the salesman of a ration shop. He had misbehaved to a poor woman customer. That evoked resistance and objection. There was exchange of words. The petitioners are autorikshaw drivers operating in the locality. False and vexatious allegations are unnecessarily raised against the petitioners. The allegation under Section 308 I.P.C. reveals only the extent of influence which the defacto complainant

has with the police, submits the counsel. That allegation has been included deliberately to ensure that the petitioners do not get bail from the learned Magistrate, the offence under Section 308 I.P.C. being one exclusively triable by a Court of Sessions.

3. The learned Prosecutor was requested to explain the nature of the allegations and the nature injuries, if any, suffered by the victim. The same has been done. I shall not embark on a detailed discussion on the merits of the case. After discussions at the bar, the learned Prosecutor does not raise any objection against grant of anticipatory bail to the petitioners. I am satisfied that anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 9.8.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that the petitioners execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation

before the Investigating Officer between 10 a.m. and 3 p.m. on 10.8.2007 and 11.8.07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 9.8.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 9.8.2007 as directed in clause (1) above, they shall be released from custody on their executing bonds for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 9.8.2007.

(R. BASANT)
Judge

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